

### REMARKS

Favorable reconsideration of this application is requested in view of the above amendments and the following remarks. Claims 5, 6, 9, 10, 12 and 22 are amended and claim 27 is newly added. Support for the amendments can be found at least on page 5, line 19 – page 6, line 2, pages 8 and 11, and Figs. 1a-1b. Claims 5-12, 22 and 27 are pending in the application. No new matter has been added. Reconsideration of the claim is respectfully requested.

Applicants respectfully disagree with Examiner's assertion that Applicants' claim language suggests "that the digital image is made up of analog image bits." *See* Advisory Action dated June 14, 2006. Applicants' independent claims clearly state that each discrete optical analog image forms a digital bit. More particularly, Applicants' Specification illustrates at least the forming of "one of the images 10 that form the data stream 20" wherein "[t]he medium 5 containing a plurality of near-field optical images 10 recorded as digital bits 19...." *See* Applicants' Specification (Publication 2003/0081300) paragraph [0033] and Figs. 1a and 1b. Paragraphs [0037] and [0038] of Applicants' Specification disclose one embodiment of a method and apparatus for forming the image 10 on the medium 5.

In paragraph 4 on page 2 of the final Office Action, claims 5-8, 10, 12 and 22 were rejected under 35 USC §102(a) as being anticipated by Kobayashi et al. (JP 2001-184691). In paragraph 5 on page 3 of the Final Office Action, claims 5-6, 9, 10, 12 and 22 were rejected under 35 USC 102(b) as being anticipated by Mizutani (JP 01-144247). In paragraph 6 on page 4 of the Final Office Action, claims 5-6, 9, 10 and 22 were rejected under 35 USC §102(b) as being anticipated by Stevens (3,648,587). In paragraph 7 on page 4 of the Final Office Action, claims 5-6, 9-12 and 22 were rejected under 35 USC §102(b) as being anticipated by Pardee et al. (3,998,989). In paragraph 8 on page 5 of the Final Office Action, claims 5-8, 10 and 22 were rejected under 35 USC §102(b) as being fully anticipated by Hamano et al. "Rewritable Near Field optical recording on photo chromic films", Jap. J. Appl. Physics Vol. 35. In paragraph 9 on page 6 of the Final Office Action, claims 5-8, 10 and 22 were rejected under 35 USC §102(b) as being fully anticipated by Numakura (JP 59-005248). In paragraph 10 on page 6 of the Final Office Action, claims 5-8, 10-12 and 22-26

were rejected under 35 USC §102(a) as being anticipated by Ogura (JP 2001-076382). In paragraph 11 on page 7 of the Final Office Action, claims 5-8, 10, 12 and 25-26 were rejected under 35 USC §102(e) as being anticipated by Weiss et al. (6,278,679). In paragraph 12 on page 7 of the Final Office Action, claims 5-6, 8-12 and 22 were rejected under 35 USC §103(a) as being unpatentable over Lee et al. (5,470,627) and Russel (4,219,704). In paragraph 13 on page 8 of the Final Office Action, claims 5-12 and 22 were rejected under 35 USC §103(a) as being unpatentable over Lec et al. and Russell, further in view of Ogura (JP 2001-076382).

Kobayashi fails to teach or suggest at least a material having discrete optical analog images in which each discrete optical analog image forming a digital bit thereon as recited in Applicants' independent claims 5 and 22. Rather, Kobayashi discloses a technique to increase the recording density on a recording medium, or recording layer, by recording information on the layer using near field light. However, Kobayashi does not disclose that digital data (bits) on the recording layer include discrete (analog) optical images. *See Applicants' Specification Figs. 1a-1b; page 5.* Moreover, marking a surface (e.g., marking size) to create digital data on a recording surface using near field optics is not the same as including a discrete optical analog image as digital bit itself.

Mitsutani fails to remedy the deficiencies of Kobayashi as Mitsutani also fails to teach or suggest at least a material having discrete optical analog images in which each discrete optical analog image forming a digital bit thereon. Rather, Mitsutani discloses a technique to produce a disk rapidly by recording information on a photosensitive material using a mask. Mitsutani does not disclose each discrete optical analog image as a digital bit.

Stevens fails to remedy the deficiencies of Kobayashi and Mitsutani as Stevens also fails to teach or suggest at least a material having discrete optical analog images in which each discrete optical analog image forming a digital bit thereon. Rather, Stevens provides minute images on photoresists.

Pardee fails to remedy the deficiencies of Kobayashi, Mitsutani and Stevens as Pardee also fails to teach or suggest at least a material having discrete optical analog images in which each discrete optical analog image forming a digital bit thereon. Rather, Pardee merely discloses a technique for improving lubricity for lowering the coefficient of friction on photographic film.

Hamano fails to remedy the deficiencies of Kobayashi, Mitsutani, Stevens and Pardee as Hamano also fails to teach or suggest at least a material having discrete optical analog images in which each discrete optical analog image forming a digital bit thereon. Rather Hamano discloses the use of a ultra-small light source and a micropipette to write and read recording marks on thin film photochromic media.

Numakura fails to remedy the deficiencies of Kobayashi, Mitsutani, Stevens, Pardee and Hamano as Numakura also fails to teach or suggest at least a material having discrete optical analog images in which each discrete optical analog image forming a digital bit thereon. Rather, Numakura discloses that placing a film with a negative image in contact with the object and exposing both the image and the object layer to light can correct the object.

Ogura fails to remedy the deficiencies of Kobayashi, Mitsutani, Stevens, Pardee, Hamano and Numakura as Ogura also fails to teach or suggest at least a material having discrete optical analog images in which each discrete optical analog image forming a digital bit thereon. Rather, Ogura discloses a multilayer disk structure to protect a tracking layer from damage.

Weiss fails to remedy the deficiencies of Kobayashi, Mitsutani, Stevens, Pardee, Hamano, Numakura and Ogura as Weiss also fails to teach or suggest at least a material having discrete optical analog images in which each discrete optical analog image forming a digital bit thereon. Rather, Weiss discloses a near-field optical device for overcoming the diffraction-limited spot size of a far-field optical device. Col. 2, lines 54-58. However, marking a surface (e.g., spot size) to create digital data on a recording surface using near field optics is not the same as including a discrete optical analog image as digital bit itself.

Thus, it is submitted that further consideration of claim rejections under 35 USC 103(a) upon the citing of the ninth and tenth applied prior art references to Russell and Lee are moot, inasmuch as the combination of Kobayashi, Mitsutani, Stevens, Pardee, Hamano, Numakura, Ogura, Weiss, Russell and Lee still lack any teaching, disclosure, or suggestion concerning digital data including discrete optical images as previously discussed.

In view of the above remarks, Applicants respectfully submit that claims 5 and 22 are patentable over the cited references. Because claims 6-12 and 27 include the features recited in independent claim 5 as well as additional

features, Applicants respectfully submit that claims 6-12 and 27 are also patentably distinct over the cited references. Nevertheless, Applicants are not conceding the correctness of the Examiner's rejection with respect to such dependent claims and reserves the right to make additional arguments if necessary.

In view of the foregoing it is respectfully submitted that the claims in their present form are in condition for allowance and such action is respectfully requested.

The Commissioner is hereby authorized to charge any fees in connection with this communication to Deposit Account No. 05-0225.

Respectfully submitted,

  
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If the Examiner is unable to reach the Applicant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.